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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 15

May 12, 1998

No. 18

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WEEK IN REVIEW

HOUSE

The House of Representatives amended and sent to the Senate H.4983. This bill concerns persons who knowingly file false police reports. The bill provides that a person who falsely reports a felony is guilty of a felony and, upon conviction, must be imprisoned up to 5 years and/or fined up to \$1,000. A person who falsely reports a misdemeanor is guilty of a misdemeanor and must be imprisoned up to 30 days and/or fined up to \$500. In imposing a sentence under this section, the judge may require the offender to pay restitution to the investigating agency to offset costs incurred in investigating the false police report.

The House adopted and sent to the Senate Concurrent Resolution H.5124 which proposes that the House and Senate adjourn on Thursday, May 21, 1998 and return on June 2, 1998 to consider specified matters before adjourning sine die at 5:00 p.m. on Thursday, June 4, 1998.

The House sent to the Senate H.4922 which revises a penalty for unlawfully passing a stopped school bus. Under current law, a person who unlawfully passes a stopped school bus must be fined not less than \$500 or imprisoned not more than 30 days. This bill provides that a person who unlawfully passes a stopped school bus must be fined not more than \$500 or imprisoned not more than 30 days.

The House concurred in Senate amendments to H.5072, a joint resolution authorizing for fiscal year 1997-98 only, that if funds in the Indigent Defense Conflict Fund are exhausted, up to five hundred thousand dollars from the Death Penalty Trial Fund may be used to pay fees and expenses in noncapital cases.

The House did not concur in Senate amendments to S.22 which exempts from the Freedom of Information Act materials relating to the recruitment and employment of public employees.

The House amended and sent to the Senate H.4943 which provides that when a person protests an election in which he was a losing candidate on any grounds (other than on the disparity of the number of ballots cast), that candidate must pay all costs incurred by the winning candidate associated with the protest process to the winning candidate if the board hearing the protest determines that the protest is frivolous and without merit.

The House amended and sent to the Senate H.5007. This bill exempts individual retirement accounts, individual retirement annuities, and individual retirement trusts from bankruptcy proceedings or attachment, levy, and sale.

The House sent H.4902 to the Senate. This bill deletes the current provision of law stating that a limited liability company (LLC) is dissolved and its business must be wound up if a member who is also a manager or any member of an at-will company dissociates himself from

the LLC, unless the remaining members agree to continue or the business is governed by a right-to-continue provision in the operating agreement.

The House appointed a committee of conference to reach an agreement with the Senate on H.4799 which pertains to the use of drag nets by shrimp boats off the coast of Kiawah and Seabrook Islands. The Senate amended the bill to establish no wake zones in various locations on Hilton Head Island and in one location on Beaufort County's New River. Senate amendments also provide that no boat or watercraft may anchor or loiter within one hundred feet of a private dock adjacent to or abutting the no wake zones established in the bill or within one hundred feet of Windmill Harbor on Hilton Head Island. A violator is guilty of a misdemeanor, punishable with a fine of two hundred fifty dollars and/or imprisonment for up to ten days. A second or subsequent offense carries a fine of five hundred dollars and/or imprisonment for up to thirty days.

The House amended and gave second reading to H.4462. The bill authorizes the use of deadly force against another person when a person reasonably believes the other person is using or attempting to use unlawful force in a motor vehicle, or the other person is committing or attempting to commit a burglary or robbery of a motor vehicle. As amended, the bill provides that when the death of a person proximately results from injuries received during the theft of a motor vehicle stolen pursuant to the use or attempted use of unlawful force against the operator of the motor vehicle (or an individual present in the motor vehicle), then the person using unlawful force is guilty of murder or voluntary manslaughter.

SENATE

The Senate concurred in the House amendments to S.130, which revises the manner in which pharmacists are licensed and the manner in which they conduct business. The House amendment outlined the duties of the pharmacist-in-charge and states that pharmacists may not offer compounded medications to other pharmacies for resale; however, pharmacists may compound products based on an order from a practitioner for use by practitioners for patient use in institutional or office settings. The bill has been enrolled for ratification.

The Senate spent the majority of the week debating H.4700, the 1998-99 General Appropriation Bill. At the time this issue went to press, documentation of the Senate-passed budget bill was not available on the computer or by hard copy. In the interest of accuracy, a summary which will address highlights of the Senate budget and which will cite differences between the House and Senate bills will be included in our next issue.

JOINT ASSEMBLY: ELECTIONS

The House of Representatives and the Senate met in Joint Assembly on Wednesday, May 6, and elected the following: Supreme Court Justice: The Honorable James E. Moore; Court of Appeals Judge, Seat 9: The Honorable Ralph King Anderson; Circuit Court Judge, 1st Circuit,

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Seat 2: The Honorable Diane Schafer Goodstein; Circuit Court Judge, 2nd Circuit, seat 1: The Honorable Rodney A. Peebles; Circuit Court Judge, 3rd Circuit, seat 1: The Honorable Thomas W. Cooper, Jr.; Circuit Court Judge, 4th Circuit, seat 1: The Honorable Paul M. Burch; Circuit Court Judge, 10th Circuit, seat 1: The Honorable H. Dean Hall; Circuit Court Judge, 13th Circuit, Seat 1: The Honorable Henry F. Floyd; Circuit Court Judge, 13th Circuit, Seat 4: The Honorable John W. Kittredge; Circuit Court Judge, 15th Circuit, Seat 1: The Honorable Sidney T. Floyd; Circuit Court Judge, 16th Circuit, Seat 1: The Honorable John C. Hayes, III; Circuit Court Judge, 16th Circuit, Seat 2: The Honorable Lee S. Alford; Family Court Judge, 1st Circuit, Seat 2: The Honorable William J. Wylie, Jr.; Family Court Judge, 1st Circuit, Seat 3: Mrs. Nancy Chapman McLin; Family Court Judge, 2nd Circuit, Seat 1: The Honorable Peter R. Neussle; Family Court Judge, 3rd Circuit, Seat 1: The Honorable Ruben L. Gray; Family Court Judge, 4th Circuit, Seat 1: The Honorable Roger E. Henderson; Family Court Judge, 5th Circuit, Seat 1: The Honorable H. Bruce Williams; Family Court Judge, 5th Circuit, Seat 4: The Honorable Donna S. Strom; Family Court Judge, 7th Circuit, Seat 2: The Honorable James F. Fraley, Jr.; Family Court Judge, 7th Circuit, Seat 3: The Honorable Wesley L. Brown; Family Court Judge, 8th Circuit, Seat 2: The Honorable John M. Rucker; Family Court Judge, 8th Circuit, Seat 3: The Honorable Billy A. Tunstall, Jr.; Family Court Judge, 9th Circuit, Seat 1: The Honorable F. P. Segars-Andrews; Family Court Judge, 9th Circuit, Seat 3: The Honorable Judy Cone Bridges; Family Court Judge, 9th Circuit, Seat 6: The Honorable Jack A. Landis; Family Court Judge, 10th Circuit, Seat 1: The Honorable Barry W. Knobel; Family Court Judge, 10th Circuit, Seat 2: The Honorable Robert H. Cureton; Family Court Judge, 11th Circuit, Seat 1: The Honorable Kellum W. Allen; Family Court Judge, 12th Circuit, Seat 3: The Honorable Wylie H. Caldwell, Jr.; Family Court Judge, 13th Circuit, Seat 3: The Honorable Amy C. Sutherland; Family Court Judge, 13th Circuit, Seat 4: The Honorable Alvin D. Johnson; Family Court Judge, 13th Circuit, Seat 6: Mr. Timothy L. Brown; Family Court Judge, 14th Circuit, Seat 2: The Honorable Jane Dowling Fender; Family Court Judge, 14th Circuit, Seat 3: Mr. Robert S. Armstrong; Family Court Judge, 15th Circuit, Seat 2: The Honorable Lisa A. Kinon; Administrative Law Judge, Seat 5: The Honorable Ray N. Stevens.

Pubic Service Commissioner, 1st Congressional District: Mr. William Saunders; Pubic Service Commissioner, 2nd Congressional District: Mr. C. Dukes Scott; Pubic Service Commissioner, 3rd Congressional District: Mr. Randy Mitchell; Pubic Service Commissioner, 4th Congressional District: Mr. Philip T. Bradley; Pubic Service Commissioner, Fifth Congressional District: Mr. Clay Carruth, Jr.; Pubic Service Commissioner, 6th Congressional District: Mrs. Mignon L. Clyburn; Pubic Service Commissioner, At-Large District: Mr. C. Robert Moseley.

Legislative Audit Council Members: Mr. Dill Blackwell and Mrs. Nancy Hawk.

State Colleges and Universities Boards of Trustees: The Citadel, At-Large Seat: Col. William E. Jenkinson, III; Clemson University, At-Large Seats: Mr. Harold Doug Kingsmore, Mrs. Patti McAbee, and Mr. Joseph D. Swann; Coastal Carolina University, 1st Congressional District, Seat 2: Mr. Robert Lee Rabon; College of Charleston, 1st Congressional District, Seat 1: Mr. Joseph F. Thompson, Jr.; 2nd Congressional District, Seat 3: Charlotte Berry; 3rd Congressional District, Seat 5: Anne T. Sheppard; 4th Congressional District, Seat 7: Robert S. Small, Jr.; 5th Congressional District, Seat 9: F. C. McMaster; 6th Congressional District, Seat 11: J. David Watson; At-Large District, Seat 13: Thomas W. Weeks; At-Large District, Seat 15: John F. Clark, III; Francis Marion University, 1st Congressional District, Seat 1: Worth

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Roberts; 1st Congressional District, Seat 2: Melissa N. Johnson; 2nd Congressional District, Seat 3: James R. Courie; 3rd Congressional District, Seat 5: Carolyn B. Short; 4th Congressional District, Seat 7: Randall H. Dozier; 5th Congressional District, Seat 9: W. C. Stanton; 6th Congressional District, Seat 11: Peter D. Hyman; At-Large District, Seat 13: Robert E. Lee; At-Large District, Seat 15: Kenneth Jackson; Lander University, 1st Congressional District, Seat 1: Darlene N. Hyman; 2nd Congressional District, Seat 3: Maurice Holloway; 3rd Congressional District, Seat 5: William G. Stevens; 4th Congressional District, Seat 7: Martha S. Whitener; 5th Congressional District, Seat 9: Glenn J. Lawhorn, Jr.; 6th Congressional District, Seat 11: Morgan B. Coker; At-Large District, Seat 13: Ray Hunt; At-Large District, Seat 15: Bobby M. Bowers; Medical University of South Carolina, 1st Congressional District, Medical Profession: Dr. Donald R. Johnson, II.; 2nd Congressional District, Medical Profession: Dr. Thomas C. Rowland, Jr.; 3rd Congressional District, Medical Profession: Dr. Stanley C. Baker, Jr.; 4th Congressional District, Non-medical Profession: Thomas L. Stephenson; 5th Congressional District, Non-medical Profession: Robert C. Lake, Jr.; 6th Congressional District, Non-medical Profession: Margaret Addison, B.A.; South Carolina State University, 2nd Congressional District, Seat 2: Samuel Glover; 3rd Congressional District, Seat 3: Charles C. Lewis, Sr.; 6th Congressional District, Seat 6: Joan S. McLeod; At-Large District, Seat 7: Charles H. Williams, II; At-Large District, Seat 8: John Skolds; At-Large District, Seat 9: Leroy Mosely, Jr.; University of South Carolina, 1st Judicial Circuit: Othniel Wienges, Jr.; 3rd Judicial Circuit: Arthur S. Bahnmuller; 5th Judicial Circuit: William C. Hubbard; 7th Judicial Circuit: Toney J. Lister; 9th Judicial Circuit: John von Lehe, Jr.; 11th Judicial Circuit: Michael J. Mungo; 12th Judicial Circuit: C. Edward Floyd, 13th Judicial Circuit: Mack I. Whittle, Jr.; Wil Lou Gray Opportunity School, At-Large Seat: Deborah Lynn Ammons; Winthrop University, At-Large Seats: Robert Gahagan and E. Thomas Crowson.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The Judiciary Committee amended and gave a favorable recommendation to **S.276**. This bill prohibits giving away a live animal including, but not limited to, a fish, bird, fowl, or reptile, as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement, or for these species to be used as an incentive to

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enter into any business agreement if the offer made was for the purpose of attracting trade. As amended, the bill may not be construed to prohibit an auction or raffle of a live animal including, but not limited to, a fish, bird, fowl, or reptile. Further, the giving away or the testing of game or fowl for breeding purposes only shall be deemed lawful and is not prohibited as an incentive to enter into a business agreement if the person giving away or testing game or fowl is engaged in that trade.

The Judiciary Committee amended and gave a favorable report to **S.45**. This bill states that it is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school from attendance in the school or school program. Violators are guilty of a misdemeanor and, upon conviction, must be fined not more than \$1,000 or imprisoned not more than 2 years, or both. The amendment requires a first or second offense to be tried exclusively in magistrate's court, while third and subsequent offenses must be tried in the court of general sessions.

The Judiciary Committee gave a favorable recommendation to **S.1069**. This bill provides that the State Election Commission may establish, in cooperation with the Federal Voting Assistance Program, a pilot project for the purposes of permitting armed forces personnel and overseas citizens to transmit their votes to the election authority over an electronic medium using the Internet. For purposes of this project, armed forces personnel and overseas citizens are entitled to cast and have counted votes for only those candidates and questions for which they would be eligible to cast an absentee ballot.

The Judiciary Committee amended and gave a favorable recommendation to **H.5045**, the Religious Freedom Restoration Act. The purpose of the bill is to guarantee that a test of compelling state interest will be imposed on all state and local laws and ordinances in all cases in which the free exercise of religion is substantially burdened, and to provide a claim or defense to persons whose exercise of religion is substantially burdened by the State. Under the provisions of this bill, the State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person is in furtherance of a compelling state interest and the least restrictive means of furthering that compelling state interest are used. If a person's exercise of religion has been burdened in violation of this law, the person may assert the violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the State. If the person prevails in a judicial proceeding, the court must award the person attorney's fees and costs. This new chapter would apply to all existing and future state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise.

The Judiciary Committee amended and gave a favorable report to **H.4767**. This bill amends the definition of a "victim" and "criminal offense" for purposes of notifying victims of the release, escape, or transfer of persons convicted of committing an offense involving the victim. The bill states that criminal offenses include both statutory and common law offenses, however, drawing or uttering a fraudulent check or a traffic offense that does not involve personal injury or death are specifically excluded as criminal offenses. Additionally, the bill specifies that a victim does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense. The bill also contains provisions addressing notification

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procedures for certain state agencies (e.g., the Department of Corrections) for post-conviction proceedings and addresses each county's allocation from the assessment charged to a person who is convicted, pleads guilty or nolo contendere to, or forfeits bonds for an offense tried in general sessions court.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

EDUCATION AND PUBLIC WORKS

S.1173 OBSTRUCTIONS ON LOCAL HIGHWAYS Sen. Land

This bill allows the Department of Transportation to approve obstructions erected by local governments, including school districts, if the obstruction is intended to protect property from vandalism.

S.1195 PEE DEE REGIONAL AIRPORT DISTRICT Sen. Leatherman

This bill makes changes in the Pee Dee Regional Airport District (the district), including but not limited to: changing the composition of the governing body; reducing the jurisdiction of the district; limiting the number of terms a member may serve on the authority (which exercises and performs the corporate powers and duties of the district) ; authorizing the governing body of the councils composing the authority to increase the amount of compensation of members of the authority; authorizing the authority to provide for the use of real property in addition to other property; deleting the power of the authority to develop an industrial or business park; deleting the power to direct the auditors of the counties composing the authority to levy a tax on the properties within the district; authorizing the authority to develop certain lands of the authority; providing for the disposition of fines and forfeitures collected pursuant to provisions of the bill; deleting provisions relating to the authority depositing or expending monies, accepting donations, issuing negotiable instruments, and the authority to issue bonds; changing the use of certain revenues derived by the authority; deleting provisions which prohibited the authority from constituting all or part of certain lands of the authority as an industrial or

business park under certain provisions of the SC Constitution; deleting the provision relating to the establishment of an industrial or a business park; and providing that nothing in the bill shall prohibit annexation by the City of Florence of the property of the district.

JUDICIARY

S.1000 AGE OF CONSENT Sen. Ford

This joint resolution proposes an amendment to the South Carolina Constitution by raising the age of consent to sexual intercourse for an unmarried person from 14 to 16 years of age.

S.1075 ALCOHOLIC LIQUOR CONTAINERS Sen. Saleeby

This bill states that a retail dealer may own or keep in his possession alcoholic liquors in separate containers containing less than one hundred milliliters.

S.1162 INSTITUTIONAL SERVICES FOR JUVENILES Sen. Bryan

This bill revises the standards applicable to juvenile detention facilities and states that preadjudicatory juveniles who are subsequently transferred to a juvenile detention center may be housed in a temporary holdover facility when returned to the community for a court appearance (yet the temporary housing must not exceed 48 hours).

LABOR, COMMERCE AND INDUSTRY

S.718 PRACTICE OF PSYCHOLOGY Sen. O'Dell

This bill clarifies which activities constitute the practice of psychology and provides specific exemptions for activities which may be conducted without a psychology license. The bill revises qualifications for licensure and revises penalties for practicing without a license.

S.844 JOBS ECONOMIC DEVELOPMENT AUTHORITY Sen. Courson

This bill specifies the conditions under which information compiled by the Jobs Economic Development Authority may be deemed confidential. The Authority is required to supply the Senate Finance Committee or the House Ways and Means Committee with information requested which regards a loan or grant. Final approval by the General Assembly is required for loans initially approved by the Authority that are guaranteed by the state.

S.951 LICENSURE OF SPECIALISTS IN SCHOOL PSYCHOLOGY Sen. Drummond

This bill provides for the licensure and regulation of specialists in school psychology. A licensed specialist in school psychology is added to the Board of Examiners for the Licensure of Professional Counselors, Associate Counselors, and Marital and Family Therapists.

S.1128 PROFESSIONAL THERAPISTS AND COUNSELORS Sen. Holland

This bill conforms the licensure of professional counselors, associate counselors, and marital and family therapists to the uniform statutory framework for professional and occupational boards under the Department of Labor, Licensing and Regulation. The bill provides for the licensing and regulation of professional counselors and marriage therapists and interns. The bill provides for the licensure and regulation of alcohol and drug abuse counselors.

S.1179 CAROLINA CAPITAL INVESTMENT CORPORATION Sen. Drummond

This bill authorizes the Commissioner of Banking to examine the Carolina Capital Investment Corporation.

S.1212 OVERSIGHT OF INSURANCE Sen Saleeby

This bill makes various revisions to the oversight authority of the State Insurance Commissioner.

S.1215 REHABILITATION AND LIQUIDATION OF INSURERS Sen. Saleeby

This bill specifies the liability of a reinsurer in rehabilitation and liquidation proceedings of an insurer.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.759 WASHINGTON LIGHT INFIRMARY AND SUMTER GUARDS BOARD OF DIRECTORS Sen. McConnell

This bill increases the membership of the Washington Light Infirmary and Sumter Guards Board of Directors from five to seven members. The bill authorizes the Commander/Chairman to appoint all seven board members. Currently, two members are elected by the Washington Light Infirmary, two from the Sumter Guard, and the secretary is elected by those four members.

WAYS AND MEANS

S.1067 RETIREMENT SYSTEMS Sen. Holland

This bill provides that, regarding lump sum contributions by members of the SC retirement system, a member who has been in continuous covered employment for ten years may receive creditable service for any amount of out-of-state service.

MAJOR LEGISLATION CONSIDERED DURING THE 1998 LEGISLATIVE YEAR

This section of the *Legislative Update* highlights some of the major bills considered by the General Assembly this year. This section is not intended to be an exhaustive list of the matters debated by the legislature. Major legislation is summarized here in a format which is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. The report is a guide to, not a substitute for, the full text of the legislation summarized. This section covers legislative activity through May 11, 1998. The status and content of the legislation is subject to change.

Many of the issues summarized in this Update are also included in the 1998-99 General Appropriation bill as passed by the House and/or the Senate. At the time this issue went to press, documentation of the Senate-passed budget bill was not available on the computer or by hard copy. In the interest of accuracy, a summary which will address highlights of the Senate budget and which will cite differences between the House and Senate bills will be included in our next issue.

CRIMINAL JUSTICE/THE COURTS

SEXUALLY VIOLENT PREDATOR ACT

H.4360, the "Sexually Violent Predator Act," establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. A "sexually violent predator" is defined as a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence if the person is not confined in a secure facility.

When a person has been convicted of a sexually violent offense, the agency with jurisdiction (for example, the Department of Corrections) must give notice to the Attorney General and the solicitor 90 days before the anticipated release from total confinement. The Attorney General or the solicitor may file a petition alleging that the person is a sexually violent predator. A judge must then determine whether probable cause exists to believe the person named in the complaint is a sexually violent predator. If the judge so determines, the person must be taken into custody. Within 72 hours after being taken into custody, the person must be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause that the detained person is a sexually violent predator.

The court must conduct a trial within 60 days after the completion of the hearing to determine whether the person is a sexually violent predator. A person determined to be a sexually violent predator must be committed to the custody of the Department of Mental Health (DMH) and

segregated from other patients under the supervision of DMH. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person's release. A person committed as a sexually violent predator must be examined annually and the court must conduct an annual review of the status of the committed person.

STATUS - H.4360 has been referred to the Senate Judiciary Committee.

SENTENCING GUIDELINES

The House has passed H.3842. This bill extends the provisions of Truth in Sentencing to all crimes and establishes advisory sentencing guidelines for crimes with maximum penalties of one year or more. The bill provides that the court should consider the guidelines when determining the appropriate sentence for applicable criminal offenses. The advisory sentencing guidelines use a two-dimensional grid to determine the appropriate sentence for offenders. The intersection of the horizontal and vertical score (based on several factors concerning the crime and the offender) meet at the appropriate sentencing grid cell. Within each grid cell, there are three sentencing ranges - the presumptive range (for cases with no extraordinary circumstances), the aggravating range (for cases warranting a longer sentence because of aggravating sentences), and the mitigating range (for cases warranting a lesser sentence because of mitigating factors). The bill also gives the court discretionary authority to determine if a departure from the guidelines' recommendation is warranted. The court may consider such factors as whether the defendant assisted in the investigation or prosecution of another person, or whether the defendant caused the victim to suffer protracted physical or mental harm.

The bill also extends the provisions of Truth in Sentencing to all crimes. A prisoner convicted of a crime and sentenced to the Department of Corrections would not be eligible for early release, discharge, or community supervision until the prisoner has served 85% of the actual term of imprisonment imposed (the provisions of Truth in Sentencing currently apply only to "no parole offenses"). This percentage must be calculated without the application of earned work credits, education credits, and good time credits. All or part of these credits may be forfeited at the discretion of the Director of the Department of Corrections if the offender commits an offense or violates one of the rules of the institution.

STATUS - H.3842 has been referred to the Senate Judiciary Committee.

MAGISTRATES COURT REFORM

The House passed H.4378, the Magistrates Court Reform Act of 1998. This bill requires a magistrate appointed to office after July 1, 1999 to have a four-year baccalaureate degree (although a grandfathering provision exempts any magistrate serving on 7/1/99 from this provision). The South Carolina Court Administration, in cooperation with the technical college system, must administer an eligibility exam to test the basic skills of persons seeking an initial appointment as a magistrate after July 1, 1999. The senatorial delegation must use the results

of the eligibility exams to assist in its selection of nominees (the Governor appoints magistrates with the advice and consent of the Senate). Persons may be exempted from taking the examination if certain prescribed educational equivalency requirements have been met.

The bill also requires magistrates to observe 10 trials before presiding over a trial. Magistrates would be paid by the state through the SC Court Administration, and counties would be prohibited from supplementing the salaries of magistrates. Three base categories for salaries are established, depending on the population of the county where the magistrate is located. Magistrates in counties of 150,000 or more would be paid 55% of a circuit court judge's salary; for counties between 50,000 and 150,000, magistrates would be paid 45% of a circuit judges salary; and for counties below 50,000, magistrates would be paid 35% of a circuit court judge's salary. Magistrates would not be paid 100% of the base salary until after four years in office.

The bill also increases the fee in magistrates court for issuing a summons and complaint in a civil action and for giving judgment from \$25 to \$45, increases the fee for proceedings by a landlord against a tenant from \$10 to \$20, and raises the costs charged by the court for writing bad checks from a maximum of \$20 to a maximum of \$41. The bill also raises the fee for the party applying for a warrant to a maximum \$41 if the case is dismissed for lack of prosecution (current law provides a maximum \$20 liability). The House also allowed concurrent civil jurisdiction for magistrates on specified legal actions which do not involve over \$7,500 (as opposed to the current cap of \$5,000 on these itemized legal actions).

STATUS - H.4378 has been referred to the Senate Judiciary Committee. The Senate version of the Magistrates Court Reform Act of 1998 (S.885) is pending on the Senate calendar.

DUI LEGISLATION

The House Judiciary Committee amended and gave a favorable recommendation to S.174. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. If a person under age 21 refuses to submit to a chemical test, the Department of Public Safety must suspend his license for 6 months (or for one year if the person within the five years preceding the violation of this section, has been convicted of DUI). If a person under age 21 submits to a chemical test and the test result indicates a BAC of .02 or more, the department must suspend his license for 3 months (or 6 months if the person, within the 5 years preceding the violation of this section, has been convicted of DUI).

Additionally, the bill provides that a test may not be administered or samples taken unless the person has been informed in writing that he does not have to take the test or give the samples, but that his privilege to drive must be suspended or denied for at least 6 months if he refuses to submit to the tests and that his refusal may be used against him in court. The person must be informed that his privilege to drive will be suspended for at least 3 months if he takes the test or gives the samples and has an alcohol concentration of .02 or more; that he has the right to have a qualified person of his own choosing conduct additional independent tests at his

expense; he has the right to request an administrative hearing within 10 days of the issuance of the notice of suspension; and that he must enroll in an Alcohol and Drug Safety Action Program (ADSAP) within 10 days of the issuance of the notice of suspension.

The person may obtain a temporary alcohol restricted license, which allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing, or the final decision or disposition of the matter (this license must be obtained within 10 days of the issuance of the notice of suspension). If the person does not ask for the administrative hearing within the 10 days, he waives his right to the hearing and his suspension must not be stayed. At the hearing, if the suspension is upheld, the person's driver's license must be suspended; if the suspension is overturned, the person must have his driver's license reinstated and is not required to complete ADSAP.

The bill also states that it is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's mental and physical abilities are materially and appreciably impaired. If a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol (the effective date for this provision would be January 1, 2001 - the current provision states that it may be inferred that a person is under the influence of alcohol if his BAC is .10). The bill requires video taping at both the incident site and the breath test site, and the bill creates a study committee to examine state law concerning minibottles and alcoholic liquor.

STATUS - The House adjourned debate on S.174 on May 7, 1998.

EDUCATION (K-12)

EDUCATION ACCOUNTABILITY

The House passed H.4399, the "South Carolina Performance and Accountability Standards for Schools (PASS) Act." This bill creates a system of accountability for the state's kindergarten through twelfth grade public education system by equipping students with a strong academic foundation and providing a clear means of measuring the progress of individual students, schools and school districts. To provide oversight, the bill creates the Performance and Accountability Standards for Schools Commission, composed of fifteen voting members who serve four-year terms. The PASS Commission would include legislators, members representing business and industry, and members representing public education.

The bill directs the Board of Education (the Board) to adopt specific performance-oriented education standards for math, English/language arts, science, and social studies for kindergarten through twelfth grade, and requires a cyclical review of these standards, by academic area, to ensure the maintenance of high expectations for learning and teaching.

The bill directs the Board to develop or adapt a statewide assessment program for grades two through eight; end of course tests for gateway courses in English/language arts, mathematics, science, and social studies for grades nine through twelve; and an exit exam which is linked to

the adopted standards. The Board also will develop or adapt a first and second grade readiness test which is linked to the adopted standards.

The bill requires the State Department of Education to provide data from these assessments to the schools and districts of the State. The schools and districts must disseminate this information to parents in a format that will clearly indicate both the school's and the individual student's performance. The bill requires the PASS Commission, working with the Board, to establish an annual report card for elementary, middle, and high schools, and for school districts, and directs what must be included in the report card and how and when the report card must be distributed. Such report cards would assign schools letter grades (A, B, C, D or F) to indicate the school's absolute score in meeting student achievement benchmarks as well as the progress the school has made towards meeting benchmarks since the last grading period. The House bill allows a student who attends a school which receives an "F" for its absolute grade to transfer to any other school in the district. If a district does not contain any schools receiving better than an "F" for an absolute grade, a student may transfer to a school in an adjoining district, if space is available. A student may remain at the school where he transfers until he finishes the highest grade level offered at the school. Applicable state and federal funding per student will follow the transfer student to the adjoining district.

The bill also establishes a program for recognizing and rewarding schools with high levels of absolute and improved performance. Assistance for poorly performing schools is provided in the bill with different requirements delineated for schools rated "D" and for schools rated "F." Assistance to these schools includes the creation of a pool of qualified teachers and principals who will be paid an incentive wage for three year contracts placing them in the low-performing schools.

The bill requires the Commission to provide a comprehensive review of professional development, including principal leadership development and teacher staff development. The bill requires a subcommittee of the Commission to explore alternatives for the development of an on-going public relations/public awareness campaign and issue a report to the Commission of the plan by July 1, 1999.

The bill establishes a separate fund within the State's General Fund to provide financial support for poorly performing schools. The fund may consist of grants, gifts, public or private donations, and appropriations from the General Assembly. Monies from the fund are to be invested by the State Treasurer. The State Board of Education, in consultation with the Commission, would administer and authorize any disbursements from the fund.

The bill authorizes the PASS Commission to monitor and review the funding of Education Improvement Act programs. If a school district has adopted a policy permitting corporal punishment, the school district and its employees are immune from civil and criminal liability while administering corporal punishment in conformity with the district's policy, absent gross negligence or recklessness.

The Senate passed S.850, the SC Performance and Accountability for Excellence in Teaching and Learning Act. Included among the many differences between the Senate and House accountability bills: the Senate proposal does not assign letter grades to indicate a school's

performance (schools are designated as "successful," "proficient," "acceptable," "on notice," or "challenged"); the Senate proposal does not allow a student who attends a school receiving a low ranking to transfer to another school; the Senate proposal provides that districts choosing to lower the pupil-teacher ratio to 15:1 in kindergarten through grade three (phased in over four years) will be eligible for funding assistance; the Senate proposal provides for forty-six alternative schools (one per county), which, having met certain criteria, would be eligible to receive state funding, and the establishment of programs by the Board of Education help train staff for schools designated as "on notice;" the Senate proposal provides for a principal mentoring program, teacher-specialists on site, and principal-specialists on site (with salaries and supplements for specialists paid for by the State) to help these schools meet academic standards.

The Senate's accountability proposal also includes: creation of thirteen multi-school district regional service centers to provide coordinated, quality technical assistance to schools and districts; a requirement for the establishment of grant programs to fund homework centers in schools and districts designated as "on notice" or "challenged"; a grant program to assist with additional costs incurred with intersession assistance for students with a "D" average or below in the core academic areas.

STATUS - The House amended the Senate bill (S.850) by striking everything except the title of the Senate bill and inserting the House-passed version of H.4399, the PASS Act. The Senate refused to concur in the House amendment to S.850. A conference committee is working to resolve the differences. (NOTE: The Senate Education Committee replaced the language in the PASS bill (H.4399) with the language from the EXCEL proposal and that bill is pending on the Senate calendar).

EDUCATION, HIGHER

TUITION ASSISTANCE

The House passed H.4535, the Legislative Incentives for Future Excellence (LIFE) Scholarship bill, which provides \$2,000 per year for full-time attendance at South Carolina four-year colleges and \$1,000 per year for full-time attendance at the state's two-year colleges to students who meet specified academic and residency requirements. To be eligible for LIFE Scholarship, a student must graduate from high school with at least a 3.0 grade point average (on a 4.0 scale) and a minimum score of 1000 on the Scholastic Aptitude Test (SAT), or an equivalent score on the ACT beginning with the 1998-99 school year. The minimum SAT/ACT score requirement does not apply to scholarships to two-year institutions of higher learning, including technical schools. The minimum SAT/ACT score requirement will be raised to 1050 beginning school year 2000-2001, and 1100 beginning school year 2002-2003.

By the year 2000, students graduating from high school must comply with the curriculum requirements of the STAR (*Superior Scholars for Today and Tomorrow*) diploma to be eligible for the LIFE scholarship. A student who does not meet the SAT requirement as a graduating high school senior may earn the scholarship after his freshman year in a four-year institution of higher learning, if the student earns a 3.0 grade point average on a 4.0. scale. The student will

lose the scholarship if he does not maintain a 3.0 grade point average, but the scholarship may be reinstated after one year if the student's grade point average improves to a cumulative 3.0. Students must also pass thirty credit hours each year to maintain the scholarship.

Scholarships may only be used at institutions of higher learning in the state which meet certain criteria, usually accreditation from the Southern Association of Colleges and Schools (SACS). The House amended the bill to include Bob Jones University as an institution which may receive LIFE Scholarship funds. Another House-passed amendment provides for special review by the Commission on Higher Education and the possible waiver of certain requirements in the case of applicants for a LIFE Scholarship who are enrolled at the SC School for the Deaf and Blind or the Wil Lou Gray Opportunity School.

An individual is ineligible for the LIFE Scholarship if he has been convicted, adjudicated delinquent, or plead *nolo contendere* to a felony or an alcohol or drug-related offense.

*STATUS - **H.4535** is pending in the Senate Education Committee. However, the scholarship plan is also included in Part II of the 1998-99 General Appropriation bill as passed by the House. The Senate-passed General Appropriation Bill includes provisions for a higher education tax credit, providing assistance which is lower in amount than the assistance provided in the LIFE legislation, but the tax credits would be available to more individuals than would the LIFE scholarship.*

FAMILY/HEALTH

GENETIC INFORMATION

Both the Senate and the House of Representatives have approved **S.535** which provides for privacy of genetic information with regard to insurance coverage. Proponents of the legislation contend that many individuals are hesitant to undergo genetic testing for fear that the results of the tests will make it more difficult for them, and their blood relatives, to obtain affordable health insurance coverage. Proponents offer this legislation to encourage individuals to obtain potentially life-saving information from genetic tests without fear of an adverse impact on their insurance rates. To that end, this bill prohibits insurers from denying or restricting coverage on an individual on the basis of information obtained in genetic tests. An accident or health insurer may not require a person to consent to disclosure of genetic information as a condition for obtaining accident and health insurance. Neither may an insurer charge rates which vary on the basis of information obtained from genetic tests.

Under the legislation, it is unlawful to perform a genetic test on blood, urine, or any other biological sample without consent, unless the test is performed: (1) by a law enforcement agency in a criminal investigation; (2) to identify a dead body; (3) in the course of a scientific study where the identities of test subjects are not disclosed; (4) to establish paternity; or (5) pursuant to statute or specific court order. Under the legislation, all genetic information is confidential, and such information may be released only: (1) if the information is necessary to a criminal investigation,

inquest, or proceeding; to identify a dead body; (2) pursuant to a court order; (3) when disclosure of the genetic information of a deceased individual would assist medical diagnosis of blood relatives; (4) to establish paternity; or (5) as required by state or federal statute.

Civil remedies are provided for individuals harmed by unauthorized disclosure or use of genetic information. The bill authorizes the following remedies: equitable relief, which may include a retroactive order, directing that health insurance be provided under the same terms and conditions as would have applied had the violation not occurred; actual damages; and, recovery of costs and reasonable attorney fees.

STATUS: Having received approval from both the Senate and the House, S.535 has been enrolled for ratification.

"OMNIBUS HEALTH BENEFITS AND EDUCATION ACT OF 1998"

The House sent to the Senate H.3985, the "Omnibus Health Benefits and Education Act of 1998." The legislation requires a health benefit plan to allow its female enrollees, who are at least thirteen years of age, a minimum of two visits each year, without prior approval, to a obstetrician-gynecologist (OB/GYN) in the health benefit plan. Should the OB/GYN find during these two visits that continued treatment is medically necessary, additional visits must be authorized by the health benefit plan. The health benefit plan must notify enrollees of these benefits. The bill also requires that all health insurers which provide coverage for mastectomies, must provide coverage for hospitalization for at least forty-eight hours following the mastectomy. The bill further requires that all health insurers which provide coverage for mastectomies, must provide coverage for prosthetic devices and restorative surgery following a mastectomy so as to produce a symmetrical appearance. Additionally, the bill requires all health insurers to provide coverage for mammograms and annual pap smears.

STATUS: As of 4/15/98, the House sent to the Senate H.3985 where it was referred to the Banking and Insurance Committee.

PREGNANCY PREVENTION

H.3760 requires an unmarried pregnant female under age 18 to attend a free pregnancy prevention education course offered at a local health department. The original bill required the Department of Health and Environmental Control (DHEC) to specify the content of the course. The Senate amended the bill to require the course to be specified by the Department of Social Services (DSS) instead of DHEC. The course must include information on birth control methods and sexually transmitted diseases. Health care professionals who provide care to these teenagers must refer them to the appropriate county health department and inform them that attendance and completion of this course is a required component of their care. DHEC must report to the General Assembly by January 1, 1999 on the cost to develop and implement a comparable pregnancy and sexually transmitted disease prevention education course for males. The Senate amendment to H.3760 requires parental notification if birth control devices are given to a woman under the age of 18. The Senate also amended the bill to require the course material to contain a statement that

abstinence outside of marriage and sexual relations with an uninfected marriage partner is the only absolute way to prevent sexually transmitted diseases and to prevent pregnancy."

The Senate amendment establishes the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. This fund must be administered by DSS and county governments as provided in this new chapter. The stated purpose of the fund is to support local efforts to prevent early sexual activity and to measurably reduce the rate of adolescent pregnancy in each county and in the State and to ensure that these efforts reflect local community values. Local public or private agency or organization or combination of these agencies and organizations may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility. The bill also includes the formula for distributing funds under the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. Ten percent of the money must be used to evaluate the effectiveness of each initiative and the fund under guidelines provided by the bill; 15% must be allocated evenly among the counties; 15% must be allocated to the counties based on the size of their adolescent population; 20% must be allocated to counties based on their rate of adolescent pregnancy; 40% must be allocated to counties based on their number of adolescent pregnancies; and the county may retain up to 5% to cover the costs of administering the fund. All grant funds received by the county must be allocated within two years of receipt. If the county does not designate an agency or organization to assume these responsibilities, DSS may designate another agency or organization within the county. A local public or private agency may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility.

STATUS - On May 7, 1998, the House adjourned debate on the Senate amendments to the bill.

"SOUTH CAROLINA PATIENTS' INSURANCE AND BENEFITS PROTECTION ACT"

The House amended and returned to the Senate S.310, "The South Carolina Patients' Insurance and Benefits Protection Act." As amended, the legislation requires an employer who offers to at least fifty eligible employees *only* a closed panel health plan (for major medical, hospitalization, and surgical health insurance coverage) to also offer to eligible employees a "point-of-service" option. A closed panel health plan is a network plan which requires insured members to seek covered health care services or supplies exclusively from network providers (except in emergency cases). In contrast, a "point-of-service" option provides coverage under which insured members may obtain covered health care services/supplies from either network providers or from providers outside of the network. Under the legislation, the employer may require an employee who chooses the point-of-service option to pay for any difference in premiums or other payments in excess of the benefits provided under the closed panel plan. The bill provides that differences between the coinsurance percentages for in-network and out-of-network covered benefits in a point-of-service option plan may not exceed twenty percent, or, five percent in the case of services provided by dentists. The effective date of the legislation is set for January 1, 1999.

STATUS: The House returned S.310 to the Senate with amendments as of 4/16/98.

GAMING/GAMBLING

STATE LOTTERY

On 4/23/98, The House Ways and Means Committee gave a report of favorable with amendment to Joint Resolution H.4682 which proposes amending the South Carolina Constitution so as to establish a state lottery, the proceeds of which would be used to fund scholarships for in-state residents to attend South Carolina's postsecondary institutions. The joint resolution was subsequently recommitted to Ways and Means. A state lottery has also been mentioned in the Senate as a possible alternative funding source for the personal property tax relief provided under S.941.

STATUS: H.4682 was recommitted to the House Ways and Means Committee on 4/29/98.

VIDEO POKER BAN

The House passed H.4577, which, effective June 1, 1999, would ban video poker in South Carolina. The video poker ban also was placed in the House-passed general appropriation bill. The Senate Finance Committee gave a favorable recommendation to S.947, which would ban video poker effective June 1, 1999. On Thursday, April 8, after several days of filibuster, the Senate adjourned debate on S.947 (the Senate bill which would ban video poker) and placed H.4577 in the status of adjourned debate immediately following S.947, not to be taken up until either consideration on the General Appropriation Bill has been completed or a decision on the legality of video poker has been rendered by the Supreme Court, whichever event occurs first.

STATE GOVERNMENT

AFFIRMATIVE ACTION PROHIBITION

The House passed H.4115, which prohibits the state of South Carolina and its political subdivisions from using race, sex, color, ethnicity, national origin religion, age, or disability as criteria for either discriminating against or granting preferential treatment to any individual or group in the state's system of public employment, education, or contracting. The legislation applies only to actions taken following the enactment of the bill, and does not preclude adherence to pertinent court orders or consent decrees. The bill provides that employment of quotas to achieve equality is prohibited. The bill also provides that no preferential treatment may be granted to the families of members of the General Assembly in public employment by the state or its political subdivisions. *STATUS - H.4115 passed the House and is pending in the Senate Judiciary Committee.*

STATE EMPLOYEE PAY RAISE

The House-passed 1998-99 General Appropriation bill included an appropriation of \$23.5 million for a 2% pay increase for state employees, effective October 1, 1998. The Senate-passed budget bill provides a 2-1/2% state employee pay increase, effective July 1, 1998. Cabinet agencies must absorb the pay increase in the Senate-passed bill.

FREEDOM OF INFORMATION ACT

The House amended and returned to the Senate S.22, which revises the State Freedom of Information (FOI) Act. As amended, the bill states that a public body may but is not required to exempt from disclosure certain matters that are currently exempt (including trade secrets, law enforcement records, and certain compensation paid by public bodies). The amended bill further specifies that a public body may exempt from disclosure documents incidental to a proposed contractual arrangement and documents incidental to proposed sales or purchases of property; however, these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased. A contract for the sale of real estate will remain exempt from disclosure until the deed is executed. Confidential proprietary information provided to a public body for economic development or contract negotiations purposes need not be disclosed. The bill also exempts from disclosure certain matters gathered by a public body during a search to fill an employment position and certain data collected by staff at an education institution. The bill specifies when a public body may hold a meeting closed to the public and that no action may be taken in executive session except to adjourn or to return to public session. Furthermore, the members of a public body may not commit the public body to a course of action by a polling of members in executive session.

The Senate amended S.22 and returned the bill to the House. The Senate amendment provides that a contract for the purchase or sale of real estate must remain exempt from disclosure until the deed is executed, but this exemption applies only to contracts of sale or purchase where the execution of the deed occurs within 12 months from the date of sale or purchase. The Senate amendment also requires the responsible official of each state agency or department, upon receipt of a written request, to immediately furnish to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the chairman of any standing committee of the Senate or of the House any information regarding any of the respective affairs or activities of the entity. Any person who obtains this information is subject to the rules and laws governing the confidentiality of the information. Correspondence or work products of legal counsel, any information violative of the attorney-client privilege, trade secrets, information of a personal nature the disclosure of which would constitute an unreasonable invasion of personal privacy, and certain law enforcement records are exempt from this disclosure requirement. If the responsible official willfully refuses to comply with the request for information, he must be suspended without pay (not to exceed 10 days) before an administrative hearing is held. The amendment further provides that no responsible official may be terminated from employment for violating these provisions except by the impeachment proceedings delineated in the State Constitution.

STATUS - On May 7, 1998, the House refused to concur in the Senate amendments.

INVESTMENT OF STATE EMPLOYEES' PENSION FUNDS

SENATE VERSION

S.958, as passed by the Senate, is that body's implementing legislation for the 1996 amendment (ratified in 1997) to Article X, Section 16 of the *SC Constitution*, authorizing the investment and reinvestment of the funds of various state-operated retirement systems in equity securities. The Senate-passed bill provides that the State Budget and Control Board (the board), as trustee of the retirement system, shall invest and reinvest the assets of the retirement systems as provided under current law, and the State Treasurer shall serve as agent of the Board with respect to investments made pursuant to Article 7, Chapter 9, Title 11 (the "Sinking Fund of the State"). The bill empowers the trustee to delegate to an agent all functions other than final authority to invest. The bill specifies how a trustee or other fiduciary must discharge duties and how the trustee must invest and manage assets of a retirement system. The bill requires that the trustee adopt a statement of investment objectives and policies for the retirement system, and specifies items that must be included in the statement, which must be reviewed and changed or reaffirmed annually. The bill provides for liability and for remedy in the event of breach of duty by the trustee or other fiduciary. The bill creates and provides terms, powers, and duties for, a five member State Retirement Systems Investment Panel (one each appointed by the Governor, State Treasurer, Comptroller General, Chair of Ways and Means, and Chair of Senate Finance), which is established "for the purpose of providing outside advice to the board with respect to its investment plan." The bill requires that, after the board has received the advice of the panel, the board shall adopt an annual investment plan, which must be implemented by the board. The bill also amends the Freedom of Information Act so as to provide an exemption from disclosure for the State Budget and Control Board, while meeting as the trustee of the State Retirement System, if the meeting is in executive session specifically pursuant to particular matters specified in the bill.

HOUSE VERSION

The House amended **S.958** so as to conform it to the provisions of **H.4619**, the House's implementing legislation for the above-referenced amendment to Article X, Section 16 of the *SC Constitution*. (**H.4619** was recommitted to the House Ways and Means Committee.) **S.958**, as amended by the House, establishes the State Retirement Systems Investment Panel, consisting of five members, one each appointed by the Governor (this appointee serves as Panel chairman), the State Treasurer, the Comptroller General, and the chairs of the House Ways and Means Committee and the Senate Finance Committee. Consistent with provisions of the Constitutional amendment, the bill provides for panel members' qualifications, terms of service, duties, and compensation. The bill provides for the authorities of the panel, including a requirement that the panel adopt, in consultation with the State Treasurer, an annual investment plan for the retirement systems for the next fiscal year. This plan must be approved by the State Budget and Control Board, which must provide the panel with a statement of actuarial assumptions and general investment objectives. The plan, which must include components specified in the bill, must be reviewed by the panel at least once each fiscal year quarter. The bill provides that no more than forty percent of the market value of the assets of a retirement system may be invested in equity securities, and any increase during any fiscal year in the proportion of the market value of the

assets of a retirement system invested in equity securities may not exceed twenty percent of the market value of the assets of that system. The bill specifies that the State Treasurer's Office shall provide staff for the panel and provide investment reports at least quarterly during the fiscal year to the Budget and Control Board, the panel, the Speaker of the House, and the President Pro Tempore of the Senate. Also, the State Treasurer is required under the bill to provide an annual report, the contents of which are specified in the bill. The costs of administering and operating the investment programs for the retirement systems must be paid from the investment earnings of these systems. The bill provides guidelines and prohibitions for persons who have authority under the bill to invest, manage, or advise in regard to assets of the retirement systems. The bill also provides that the State Budget and Control Board may invest and reinvest the funds of the system in equity securities of a corporation within the United States that is registered on a national securities exchange as provided in the Securities Exchange Act of 1934, or a successor act, or quoted through the National Association of Securities Dealers Automatic Quotations System, or a similar service.

STATUS - S.958 is in conference committee.

TAX RELIEF

PERSONAL PROPERTY TAX RELIEF

The House has passed and sent to the Senate H.4846 and H.4847. H.4846 proposes freezing personal property taxes (i.e. taxes on motor vehicles, boats, aircraft and business personal property) at their current levels. If the freeze is authorized, H.4847 phases out motor vehicle property taxes in each county and then phases out the remaining personal property taxes.

H.4846 is a joint resolution proposing an amendment to the South Carolina Constitution which would freeze personal property taxes at their current (1998) levels. The freeze would affect property taxes imposed on motor vehicles for tax years beginning after June, 1999, and all other personal property taxes for tax years beginning after 1998. Under the constitutional amendment, local taxing authorities would annually adjust millage rate, if necessary, so that the revenue raised by personal property taxes does not exceed the amount collected in 1998.

If the above constitutional amendment is approved, H.4847 establishes a mechanism whereby expected growth in state revenue would be used to eliminate personal property taxes, reimbursing local taxing authorities for the revenue lost. The bill establishes as a separate fund in the State Treasury the Motor Vehicle and Personal Property Tax Relief Trust Fund into which 15% of new recurring State General Fund revenue growth must be deposited each year. Revenue credited to this fund must be disbursed to local taxing authorities which must, in turn, reduce personal property tax bills accordingly. First priority is given to eliminating personal property taxes paid on motor vehicles, then all other personal property taxes must be eliminated. When all personal property is wholly exempt, each taxing entity will receive a monthly reimbursement equal to one-twelfth of its local personal property base payment. The fund must be used to reimburse local taxing authorities up to the maximum amount of an estimated \$1.3 billion- that is, the amount

collected in personal property taxes as of fiscal year 1998-99, when personal property taxes are frozen under the proposed constitutional amendment.

STATUS: The House passed H.4846 and H.4847 and sent them to the Senate where they have been referred to the Finance Committee. Should Joint Resolution H.4846 be approved by the General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect. H.4847 depends upon amendment of the state constitution.

The Senate has also discussed such a plan for eliminating personal property taxes through a constitutional freeze on personal property taxes as proposed in Joint Resolution S.941 and creation of a fund for eliminating personal property taxes as provided in S.940. These measures have not received third and final reading in the Senate.

STATUS: S.941 has received second reading in the Senate, but, debate was interrupted on the measure by adjournment on 4/29/98. S.940 has not received second reading in the Senate.

The Senate approved Joint Resolution S.1055 which proposes amending the South Carolina Constitution so as to afford local taxing authorities an opportunity, but not an obligation, to provide taxpayers with relief on personal property taxes paid on cars, boats, motors, and aircrafts. Currently, the state constitution provides that such items of personal property must be taxed on an assessment of 10.5% of fair market value. The joint resolution proposes amending the state constitution so as to allow a county governing body, in consultation with all taxing entities in the county, to tax the personal property of cars, boats, motors, and aircrafts on an assessment of no more than 10.5% and no less than 6%.

STATUS: Joint Resolution S.1055 was passed by the Senate and sent to the House where it has been referred to the Ways and Means Committee. Should the joint resolution be approved by the General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect.

TRANSPORTATION

SPEED LIMITS

The House passed H.3150, which defines the highways encompassed by the interstate highway system and the state highway primary system, and revises the speed limits to seventy miles an hour on the interstate highway system and other officially posted freeways; sixty miles an hour on officially posted multilane divided primary highways; fifty-five miles an hour in other locations or on other sections of highways. Maximum speed in an "urban district" is thirty miles an hour, and speed limits on unpaved roads are limited to forty-five miles an hour. The bill also revises the language on signs posted in a work zone and provides that the penalty displayed on signs posted in a work zone are in addition to other penalties for speeding. The bill also provides that

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manufactured modular or mobile homes must not be transported at a speed in excess of ten miles below the posted speed limit when the posted limit is in excess of forty-five miles per hour, and never in excess of fifty-five miles an hour. The bill also provides that a local authority, under certain conditions, may determine that the maximum speed limit permitted is less than thirty miles an hour in an urban district.

STATUS - This bill was reported favorable with amendment from the Senate Transportation Committee, and is pending on the Senate calendar with three senators listed as "desiring to be present."

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.